

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF OREGON

KEVIN TAMAR DAVIS,

Petitioner,

v.

STATE OF OREGON,

Respondent.

HERNÁNDEZ, Chief Judge.

Case No. 3:20-cv-02074-AC

ORDER

Petitioner brings this habeas corpus action pursuant to 28 U.S.C. § 2254. Currently before the court is Respondent's Motion to Dismiss for Lack of Jurisdiction (ECF No. 13).

On March 19, 2014, Petitioner was convicted of several charges in Clackamas County Circuit Court. Petitioner filed a direct appeal, but the Oregon Court of Appeals affirmed without opinion and the Oregon Supreme Court denied review. *State v. Davis*, 275 Or. App. 1030 (2015), *rev. denied*, 359 Or. 39 (2016). The appellate judgment on direct appeal was issued on May 24, 2016.

Petitioner then sought state post-conviction relief ("PCR"). After the PCR trial court denied relief, Petitioner pursued a timely appeal. Once again, the Oregon Court of Appeals affirmed

without opinion and the Oregon Supreme Court denied review. *Davis v. State*, 303 Or. App. 176, rev. denied, 366 Or. 691 (2020).

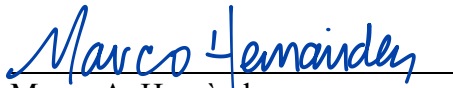
After exhausting his available state remedies, Petitioner filed a *pro se* Petition for Writ of Habeas Corpus in this court on November 30, 2020. The petition was timely filed, and served on Respondent. Respondent now moves to dismiss the Petition on the basis that this court lacks jurisdiction because petitioner's sentence for the challenged convictions fully expired on March 24, 2016, prior to the filing of the petition. See 28 U.S.C. §§ 2241(c)(3), 2254(a) (federal courts have jurisdiction to entertain applications for writ of habeas corpus only from persons who are "in custody"). Petitioner acknowledges that the court lacks jurisdiction, and consents to dismissal of this matter on that basis. Petitioner requests, however, that the dismissal be without prejudice. Respondent did not respond to petitioner's request for dismissal without prejudice.

### **CONCLUSION**

For these reasons, the court GRANTS Respondent's Motion to Dismiss for Lack of Jurisdiction (ECF No. 13). This action is DISMISSED, without prejudice.

IT IS SO ORDERED.

DATED this 25 day of April, 2021.

  
Marco A. Hernández  
Chief United States District Judge